

111TH CONGRESS
1ST SESSION

H. R. 4331

To amend title 31, United States Code, to establish the Office of Money Services Business Compliance within the Department of the Treasury for the purpose of assuring compliance with subchapter II of chapter 53 of such title by money services businesses and such other duties as the Secretary of the Treasury may delegate, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2009

Mr. BACHUS (for himself, Mr. GUTIERREZ, and Mr. TIBERI) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend title 31, United States Code, to establish the Office of Money Services Business Compliance within the Department of the Treasury for the purpose of assuring compliance with subchapter II of chapter 53 of such title by money services businesses and such other duties as the Secretary of the Treasury may delegate, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Money Services Busi-
5 ness Compliance Facilitation Act of 2009”.

1 **SEC. 2. OFFICE OF MONEY SERVICES BUSINESS COMPLI-**
2 **ANCE ESTABLISHED.**

3 (a) IN GENERAL.—Subchapter I of chapter 3 of title
4 31, United States Code, is amended by inserting after sec-
5 tion 313 the following new section:

6 **“§ 314. Office of Money Services Business Compliance**

7 “(a) ESTABLISHMENT.—There is hereby established
8 the Office of Money Services Business Compliance (here-
9 after in this section referred to as the ‘Compliance Office’)
10 as an office within the Department of the Treasury.

11 “(b) MANAGEMENT.—

12 “(1) IN GENERAL.—The management of the
13 Compliance Office shall be vested in a Director of
14 Money Services Business Compliance (hereafter in
15 this section referred to as the ‘Director’).

16 “(2) APPOINTMENT.—The Director shall be ap-
17 pointed by the President, by and with the advice and
18 consent of the Senate, without regard to political af-
19 filiation and solely on the basis of integrity and dem-
20 onstrated ability, and after consultation with the
21 Chairman of the Board of Governors of the Federal
22 Reserve System and the Comptroller of the Currency
23 (or successor to any such individual with regard to
24 bank supervisory authority), from among individuals
25 who are specially qualified to serve in that position

1 by reason of their education, training, and experi-
2 ence.

3 “(3) TERM OF OFFICE.—

4 “(A) The Director shall be appointed for a
5 term of 5 years.

6 “(B) VACANCY.—A vacancy in the position
7 of Director shall be filled in the manner the
8 original appointment was made and any indi-
9 vidual appointed to fill any such vacancy shall
10 be appointed only for the remainder of the term
11 in which the vacancy occurs.

12 “(4) REMOVAL.—

13 “(A) IN GENERAL.—Notwithstanding para-
14 graph (3), the Director may be removed by the
15 President at any time for good cause.

16 “(B) NOTICE TO THE CONGRESS.—Upon
17 the removal of a Director under subparagraph
18 (A), the President shall promptly transmit a
19 notice to the Congress of the removal together
20 with a detailed explanation of the basis for the
21 removal.

22 “(C) ADDITIONAL INFORMATION.—After
23 providing notice under subparagraph (B), the
24 President shall promptly respond to any request
25 by any committee of the Senate or the House

1 of Representatives for additional information or
2 supporting documents.

3 “(c) DUTIES.—

4 “(1) IN GENERAL.—The duties of the Director
5 shall be to assure compliance by money services
6 businesses with all applicable requirements of sub-
7 chapter II of chapter 53, regulations prescribed
8 under such subchapter and any other duty delegated
9 by the Secretary under paragraph (3).

10 “(2) REGISTRATION OF MONEY SERVICES BUSI-
11 NESSES.—

12 “(A) IN GENERAL.—No person may oper-
13 ate a money services business without reg-
14 istering annually, to the satisfaction of the Di-
15 rector under this paragraph.

16 “(B) CRITERIA.—The Director, in con-
17 sultation with the Secretary, the appropriate
18 Federal banking agencies, and appropriate rep-
19 resentative State officials, shall establish such
20 procedures and criteria for registration, com-
21 mensurate with the purposes of this section, as
22 the Director determines to be appropriate.

23 “(C) REGISTRATION AS COMPLIANCE.—
24 Any money services business registered to the
25 satisfaction of the Director under this section

1 shall be deemed to be registered with the Sec-
2 retary for purposes of section 5330.

3 “(D) COMPLIANCE.—Any money services
4 business, and any agent of a money services
5 business, which fails to register and keep cur-
6 rent a registration to the satisfaction of the
7 Secretary under this paragraph shall, after the
8 expiration of a 30-day period beginning on a
9 notice of violation issued by the Director or an
10 agent recognized by the Director, be subject to
11 the same penalties as described in subsection
12 (f)(3)(D) for a violation of an order issued
13 under subsection (f)(3).

14 “(3) DELEGATED FUNCTIONS.—The Director
15 shall carry out any other duty delegated by the Sec-
16 retary of the Treasury to the Director.

17 “(d) RULE OF CONSTRUCTION.—No provision of this
18 section shall be construed as limiting or pre-empting any
19 State law or regulation or order concerning the regulation
20 and oversight of the money service business industry, or
21 agents of money services businesses, for purposes of con-
22 sumer protection, safety and soundness, or the prevention
23 of money laundering or the financing of terrorism.

24 “(e) RECOGNITION OF SELF-REGULATORY ORGANI-
25 ZATIONS RELATING TO MONEY SERVICES BUSINESSES.—

1 “(1) REGISTRATION.—The Director may, after
2 notice and opportunity for comment and upon appli-
3 cation by an organization representing money serv-
4 ices business that meets such criteria as the Director
5 may establish under this section, approve the reg-
6 istration of such organization as a self regulatory or-
7 ganization to carry out the duties of the Director
8 under paragraph (1) with respect to the money serv-
9 ices businesses represented by such self regulatory
10 organization.

11 “(2) PROCEDURES AND REQUIREMENTS FOR
12 SRO.—The Director shall establish such procedures
13 and requirements to become a self regulatory organi-
14 zation as the Secretary determines to be appro-
15 priate, including periodic reviews of such organiza-
16 tion and reporting requirements by such organiza-
17 tion to the Director to ensure the success of such or-
18 ganizations in ensuring compliance by the money
19 services businesses, taking into account in particular
20 the requirements of subsections (g), (h), (l), (m),
21 and (n) of section 5318 and section 5318A.

22 “(3) WITHDRAWAL OF REGISTRATION.—

23 “(A) IN GENERAL.—After notice and op-
24 portunity for hearing, the Director may with-
25 draw the registration of any self regulatory or-

1 organization previously approved under this sub-
2 section.

3 “(B) NOTICE TO THE CONGRESS.—Upon
4 the withdrawal of the registration of any self
5 regulatory organization under subparagraph
6 (A), the Director shall promptly submit a notice
7 to the Congress of the withdrawal together with
8 a detailed explanation of the basis for the with-
9 drawal.

10 “(C) ADDITIONAL INFORMATION.—After
11 providing notice under subparagraph (B), the
12 Director shall promptly respond to any request
13 by any committee of the Senate or the House
14 of Representatives for additional information or
15 supporting documents.

16 “(4) REQUIREMENTS FOR RULES ENFORCED BY
17 SELF REGULATORY ORGANIZATION.—The Director
18 may establish minimum requirements for—

19 “(A) rules established by any self regu-
20 latory organization for members regulated by
21 the organization;

22 “(B) enforcement procedures and enforce-
23 ment activities by self regulatory organization,
24 with respect to the enforcement of the rules re-
25 ferred to in subparagraph (A); and

1 “(C) requirements established by a self
2 regulatory organization for withdrawal of mem-
3 bership of any noncomplying member, monetary
4 penalties, and the removal of officers and em-
5 ployees of a noncomplying member business.

6 “(5) NOTICE REQUIREMENTS.—The Director
7 shall establish procedures under which any self regu-
8 latory organization shall report to the Congress on
9 a regular basis on—

10 “(A) violations by members of the organi-
11 zation of any law, any regulation prescribed by
12 the Director, or any rule established by the or-
13 ganization since the date of the last report; and

14 “(B) any enforcement actions taken by the
15 organization since such date.

16 “(f) POWERS.—

17 “(1) IN GENERAL.—For purposes of carrying
18 out this section, the Director shall have all the pow-
19 ers of the Secretary under subsections (b), (c), (d),
20 and (e) of section 5318.

21 “(2) RULE OF CONSTRUCTION.—No provision
22 of this section shall be construed as limiting or su-
23 perseding the enforcement authority of the Secretary
24 under subchapter II of chapter 53 with respect to
25 any violation of such subchapter.

1 “(3) CEASE AND DESIST.—

2 “(A) DETERMINATION OF VIOLATION.—If
3 the Director determines that any money serv-
4 ices business, or any officer, director, agent, or
5 employee of any such business, may be violating
6 or may have violated this section, subchapter II
7 of chapter 53, or any other provision of law or
8 any regulation subject to the jurisdiction of the
9 Secretary, or may be about to violate such sec-
10 tion, subchapter, or provision of law or regula-
11 tion, the Director may issue a temporary order
12 or permanent order directing such money serv-
13 ices business, and any officer, director, agent,
14 or employee of such money services business—

15 “(i) to cease and desist from the viola-
16 tion or threatened violation;

17 “(ii) to take such action as is nec-
18 essary to prevent the violation or threat-
19 ened violation; or

20 “(iii) to take such action as is nec-
21 essary to prevent, as the Director deter-
22 mines to be appropriate—

23 “(I) significant harm to con-
24 sumers or the public interest; or

1 “(II) frustration of the ability of
2 the Director to conduct the pro-
3 ceedings or to redress the violation at
4 the conclusion of the proceedings.

5 “(B) TIMING OF ENTRY.—An order issued
6 under this paragraph shall be entered only after
7 notice and opportunity for a hearing, unless the
8 Director determines that notice and hearing
9 prior to entry would be impracticable or con-
10 trary to the public interest.

11 “(C) EFFECTIVE DATE OF TEMPORARY
12 ORDER.—A temporary order issued under this
13 paragraph shall—

14 “(i) become effective upon service
15 upon the respondent; and

16 “(ii) unless set aside, limited, or sus-
17 pended by the Director or a court of com-
18 petent jurisdiction, remain effective and
19 enforceable pending the completion of the
20 proceedings.

21 “(D) ENFORCEMENT.—Any money services
22 business, and any officer, director, agent, or
23 employee of such money services business,
24 which violates any temporary or permanent
25 order issued under this paragraph shall forfeit

1 and pay a civil penalty of not more than \$5,000
2 for each day during which such violation con-
3 tinues.

4 “(E) ASSESSMENT.—The Secretary shall
5 assess any penalty in the same manner and
6 subject to the same limitations as assessments
7 under section 5321(b).

8 “(g) MONEY SERVICES BUSINESS DEFINED.—For
9 purposes of this section, the term ‘money services busi-
10 ness’ has the meaning given to the term in section
11 103.11(uu) of title 31, Code of Federal Regulations, as
12 in effect on the date of the enactment of the Money Serv-
13 ices Business Compliance Facilitation Act of 2009.

14 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
15 is authorized to be appropriated to the Secretary for each
16 of fiscal years 2010, 2011, and 2012 such sums as may
17 be necessary to carry out this section, to be made available
18 to the Director.

19 “(i) LONG-TERM FUNDING PLANNING.—Before the
20 end of the 18-month period beginning on the date of the
21 enactment of the Money Services Business Compliance
22 Facilitation Act of 2009, the Director shall submit a re-
23 port to the Congress containing recommendations for an
24 appropriate long-term funding model for the Compliance

1 Office to ensure the independence of the Compliance Of-
2 fice.”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—
4 Section 111 of the Act approved on October 28, 1974 (12
5 U.S.C. 250), is amended by inserting “the Director of
6 Money Services Business Compliance,” after “Director of
7 the Office of Thrift Supervision,”.

8 (c) CLERICAL AMENDMENT.—The table of section for
9 chapter 3 of title 31, United States Code, is amended by
10 inserting after the item relating to section 313 the fol-
11 lowing new item:

“314. Office of Money Services Business Compliance.”.

